

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JOHN DUVALL, Register No. 444618,)	
)	
Plaintiff,)	
)	
v.)	No. 05-4170-CV-C-NKL
)	
LARRY CRAWFORD, et al.,)	
)	
Defendants.)	

ORDER

On February 28, 2006, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on April 27, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's February 28, 2006 Report and Recommendation is adopted. [34] It is further

ORDERED that defendants' motion to dismiss is granted and plaintiff's complaint is dismissed, pursuant to 42 U.S.C. § 1997e. [19] It is further

ORDERED that plaintiff's claim of denial of access to courts is dismissed, with prejudice, for failure to state a claim on which relief may be granted, pursuant to 28 U.S.C. § 1915. It is further

ORDERED that plaintiff's remaining claims of denial of medical care and retaliation against all defendants are dismissed, without prejudice, for failure to exhaust administrative remedies, pursuant to 42 U.S.C. § 1997e.

/s/ _____

NANETTE K. LAUGHREY
United States District Judge

Dated: July 5, 2006
Jefferson City, Missouri